

EXHIBIT 278

2012 V.I. Bill 0444

Enacted, December 14, 2012

Reporter

2012 V.I. ALS 7458; 2012 V.I. SESS. LAWS 7458; 2012 V.I. Act 7458;; 2012 V.I. Bill 0444

VIRGIN ISLANDS ADVANCE LEGISLATIVE SERVICE > TWENTY-NINTH LEGISLATURE OF THE VIRGIN ISLANDS Regular Session, 2012 > ACT NO. 7458 > BILL NO. 0444

Notice

Vetoed: *Italic text with a strikethrough*

Synopsis

An Act amending 22 V.I.C., chapter 9 and 331 relating to insurers and non-resident agents brokers; amending title 14 relating to the registration of sex offenders; amending title 3 relating to the members of the Government Employees Service Commission; amending Act No. 7342; appropriating monies from the Casino Revenue Fund to the Department of Tourism for the "Crucian Christmas Festival Showcase"; amending title 32 relating to the number of approved hotels; amending Act No. 7414; amending Act No. 7432; amending Act No. 7394; amending Act No. 7261 to authorize payment of employer contributions to the Government Employees Retirement System; amending title 33 to increase the excise tax on cigarettes and cigars and tobacco by ten percent each and creating a Tobacco Investment Fund; and amending title 33 to provide for retirement annuity benefits to surviving spouses of deceased elected Governors and Lieutenant Governors; and amending title 20 relating to restrictions on car rental businesses

Text

WHEREAS, [Title 22 Virgin Islands Code, section 220\(a\)](#), as currently written, requires insurance policies to be countersigned by agents "resident in the territory"; and

WHEREAS, [Title 22 Virgin Islands Code, section 772](#), as currently written, prohibits non-resident licensees, *inter alia*, from maintaining offices in the Virgin Islands and selling or soliciting insurance directly or indirectly in the territory; and

WHEREAS, these specific provisions were declared unconstitutional in the *Council of Insurance Agents and Brokers V. Vargrave Richards*, in his official capacity as the Virgin Islands Commissioner of Insurance, Civil No. 2004-16, in District Court of the Virgin Islands, Division of St. Thomas and St. John, by Order dated July 18, 2006, as amended by Order dated June 3, 2008 ("*Council v. Richards*"); and

WHEREAS, these sections should be amended to ensure Virgin Islands law is consistent with the final decision of the District Court regarding the rights of nonresident agents and brokers and to guaranty that they are afforded the same opportunities as resident agents and brokers in accordance with and as required by the Court's *Council v. Richards* decision; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

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SECTION 1. Title 22 Virgin Islands Code, chapter 9, section 220, subsection (a), is amended by striking the phrase, "or countersignature endorsement" and "resident in this territory."

SECTION 2. Title 22 Virgin Islands Code, section 220, subsection (b), is amended by striking the phrase, "or countersignature endorsement".

SECTION 3. Title 22 Virgin Islands Code, chapter 31, section 772, is amended as follows:

- (a) Strike the language in subsections (c), (d) and (e) in their entirety.
- (b) In subsection (f), paragraph (2), strike the phrase "or accepts a policy from a nonresident licensee without the required countersignature".
- (c) In subsection (f), strike paragraph (3) and insert in its place;
"(3) every insurance policy on risks or property resident, located, or to be performed in this territory placed or written by any person other than a licensed resident or nonresident agent or broker, which is not countersigned as required, may be voidable and rescinded ab initio by the insured".

SECTION 4. Title 22 Virgin Islands Code, section 753, subsection (a) is amended by striking the phrase, "he will maintain an office within the Virgin Islands and".

SECTION 5. Title 14 the Virgin Islands Code, section 1724, is amended in subsection (b) by:

- (1) by striking "appear in person at" and inserting "notify";
- (2) after the Department of Justice" inserting "in writing"; and
- (3) striking in paragraph (4) "may be required by the Attorney General" and inserting "provided in § 1726; however, a sex offender who provides reasonable and reliable proof satisfactory to the Department of Justice, that he travels frequently outside the United States for work or other legitimate purposes, or a sex offender who travels outside the United States for emergency situations, shall notify the Department of Justice prior to departure, by telephone or in writing, of travel outside the United States for periods of 48 hours or less, and shall notify the Department of Justice in writing at least 24 hours before traveling outside of the United States for periods of more than 48 hours, and, in any such case, shall notify the Department of Justice in writing upon the sex offender's return to this jurisdiction.

SECTION 6. Title 14, section 1726, subsection (b) is amended in the following instances:

- (a) by striking the language in (16) in its entirety and inserting new language that reads as follows:
"A sex offender who provides reasonable and reliable proof satisfactory to the Department of Justice, that he travels frequently outside the United States for work or other legitimate purposes, and a sex offender who travels outside the United States for emergency situations, shall notify the Department of Justice prior to departure, by telephone or in writing, of travel outside the United States for periods of 48 hours or less, and shall notify the Department of Justice in writing at least (24) hours before traveling outside of the United States for periods of more than (48) hours, and, in any such case, shall notify the Department of Justice in writing upon the sex offender's return to this jurisdiction; however, the Attorney General may, at his discretion, reduce the 21-day notice requirement, if a sex offender requests such a reduction and provides information in support of the request, satisfactory to the Department of Justice. The information must include:

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"(i) identifying information of the temporary lodging locations, including addresses and names, or, in the case of a sex offender who provides reasonable and reliable proof satisfactory to the Department of Justice, that he travels for work or other legitimate purposes frequently, reliable information regarding general travel locations and areas of work in lieu of specific addresses, and contact telephone information at which the sex offender can be contacted without unreasonable delay at all times while traveling away from the Virgin Islands; and

"(ii) The dates the sex offender will be staying at each temporary lodging location, or in such general locations and areas of work"; and

(b) by striking the language in paragraph (19) in its entirety and inserting new language to read:

"Within the 21 days prior to traveling outside of the United States, a sex offender shall notify the Department of Justice in writing of the information listed in this paragraph, but a sex offender who provides reasonable and reliable proof satisfactory to the Department of Justice that he travels frequently outside the United States for work or other legitimate purposes, and a sex offender who travels outside the United States for emergency situations, shall provide notification to the Department of Justice under this section by telephone or in writing prior to departure for periods of 48 hours or less, and shall notify the Department of Justice in writing at least 24 hours before traveling outside of the United States for periods of more than 48 hours, and, in any such case, shall notify the Department of Justice in writing upon the sex offender's return to this jurisdiction; however, the Attorney General may, at his discretion, reduce the 21-day notice requirement if a sex offender requests such a reduction and provides information in support of the request. The sex offender engaged in travel subject to this section shall provide the following information:

(i) Destination;

(ii) Dates of travel;

(iii) Places of arrival and departure;

(iv) Itinerary details or, in the case of a sex offender, reasonable and reliable proof satisfactory to the Department of Justice that he travels outside the United States for work or other legitimate purposes frequently, or a sex offender who travels outside the United States for emergency situations, reliable information regarding general travel locations and areas of work in lieu of specific itinerary information;

(v) Address or, in lieu of address, contact telephone information at which the sex offender can be contacted without unreasonable delay at all times while in the destination country;

(vi) Purpose of travel;

(vii) Such other information as may be required by the Attorney General; and

(viii) In addition to any other information-sharing requirements of the chapter, any information regarding a sex offender's intended or actual travel outside of the United States must be immediately forwarded by the Department of Justice to the United States Marshals Service."

SECTION 7. Title 3 of the Virgin Islands Code is amended in the following instances:

(a) In Section 6(b) in the first sentence by striking the word "seven" and inserting "nine" in its stead; in the second sentence by striking the words, "the remaining", and by inserting a new sentence at the end of the section to read as follows:

"The remaining two members shall be retirees of the Government of the Virgin Islands, one each from the District of St. Thomas/St. John and the District of St. Croix, who shall be elected by the other retired government employees in a manner determined by the Director of Personnel",

(b) In Section 633(b) as follows:

(1) After the word, "Governor", by inserting the words, "and the Legislature"; and

~~(2) Immediately after "632(a)." by inserting a new sentence to read:~~

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~~"If the Legislature does not receive the agreement 60 days or more prior to the termination or expiration of the existing contract, the existing contract shall be renewed automatically under the same terms and conditions until such time as the Legislature approves a new contract."~~ⁿ¹

SECTION 8. ~~Act No. 7342 (Bill No. 29-0266) is amended in Section 3(a), by adding the following sentence at the end of the first sentence;~~

~~"The amount borrowed to pay the shortfall of the 29th Legislature in the first quarter of the fiscal year 2012-2013 due to a budget reduction and for transition of the 29th Legislature to the 30th Legislature in the amount of \$ 850,000."~~ⁿ²

SECTION 9. ~~The sum of \$ 25,000 is appropriated from the Casino Revenue Fund to the Department of Tourism in the fiscal year ending September 30, 2013, for the purpose of funding the "Crucian Christmas Festival Showcase" to be held on December 15, 2012.~~ⁿ³

SECTION 10. Title 32 Virgin Islands Code, Chapter 21, § 435, subsection (c), is amended in the following instances:

- (a) Strike the word, "Four", and insert "Three" in its stead; and
- (b) Strike the word, "one", and insert "two" in its stead; and
Insert "s" at the end of the word "hotel" and strike "is" and insert "are" in place thereof.

SECTION 11. Act No. 7414 (Bill No. 29-0395) is amended in the following instances:

- (a) Section 1, subsection C is amended by striking all of the figures and language after "ORG 200 OFFICE OF THE GOVERNOR" and inserting "\$ 9,591,897 TOTAL ORG 200 OFFICE OF THE GOVERNOR \$ 9,591,897"; and
- (b) Section 2, MISCELLANEOUS, is amended in the line item, "M2118OOG Economic Development Authority", by striking "\$ 5,308,706" and inserting "\$ 4,717,700".

SECTION 12. Act No. 7432 (Bill No. 29-0413), section 1 is amended in subsection (a) by striking "Economic Development Authority" and inserting "Office of the Governor through the Bureau of Economic Research" and after the line item, "6069 Tourism Advertising Revolving", by striking both occurrences of "Economic development Authority" and inserting in their place "Office of the Governor".

SECTION 13. Act No. 7394, (Bill No. 29-0341), section 21 is repealed.

SECTION 14. Act No. 7414, (Bill No. 29-0395), is amended by striking section 8.

SECTION 15. Act No. 7261, (Bill No. 29-0123), is amended in section 7 by adding subsection (l) to read as follows:

ⁿ¹ Part of Section 7 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

ⁿ² Section 8 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

ⁿ³ Section 9 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

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"(I) Upon full satisfaction of the loan authorized in subsection (d), any balance in excess of loan payments must be used by the Government to pay the Employer's GERS contribution for those employees who will retire on or about January 1, 2013, and who the GERS has determined require employer contributions before such employees can receive retirement benefits. The GERS shall submit invoices to the Government for those employees for whom such funds will be applied. Thereafter, the Government shall certify the amounts to be paid to the GERS to include employees who have previously retired and paid the government contributions in order to retire on October 1, 2010, and thereafter."

SECTION 16. ~~ⁿ⁴Act No. (Bill No. 29-0395), Section 2, is amended the line item, "M9148", by striking "HPR-Girl Scouts Programs on St. Croix \$ 60,000" and "HPR-Youth Programs-Delta Sigma Theta St. Thomas Alumnae Chapter.~~

SECTION 17. ~~ⁿ⁵From the savings realized in Section 16 of this Act, the sum of \$ 60,000 is appropriated to the Juan F. Luis Hospital for mammography services in the Fiscal Year ending September 30, 2013.~~

SECTION 18. Act No. 7414, is amended as follows:

1. In Section 2, Miscellaneous, "M005L DHS - Men's Coalition Counseling - Catholic Services" by striking "M005L" and inserting "M1208";
2. In Section 2, Miscellaneous, "M1030 DHS - My Brother's Workshop" by striking "M1030" and inserting "M1204";
3. In Section 2, Miscellaneous, "NEW DHS - My Brother's Table" by striking "NEW" and inserting "M1030".

SECTION 19. Notwithstanding any law to the contrary, the Department of Human Services has the authority to make straight payments to vendors under the Medical Assistance Programs (MAP).

SECTION 20. Act No. 7414 (Bill No. 29-0123) is amended in Section 1, 0100 GENERAL FUND, AA ORG 800 DEPARTMENT OF PLANNING AND NATURAL RESOURCES by striking "MUSIC MENTORSHIP PROGRAM" and inserting "VIRGIN ISLANDS COUNCIL OF THE ARTS TO HAVE A MUSIC MENTORSHIP PROGRAM".

SECTION 21. ~~Title 33 Virgin Islands Code, chapter 3 is amended in the following instances:~~

~~(a) Section 42 subsection (a) is amended in Article II, item (2), "cigarettes", by striking "35%" and inserting "45%" and in item (3), "Cigars and tobacco other than cigarettes" by striking "20%" and inserting "30%"; and~~

~~(b) Section 42e is added and reads as follows:~~

~~"42e (a) The Tobacco Investment Fund is established as a distinct fund in the Treasury of the Virgin Islands administered by the Commissioner of Finance.~~

~~(b) The Fund consists of 10 percent of the excise taxes collected under section 42(a) on cigarettes and 10 percent of the excise taxes collected under section 42(a) on cigars and tobacco other than cigarettes.~~

~~(c) Of the revenues deposited into the Tobacco Investment Fund from excise taxes on cigarettes, 20% must be designated for the V.I. Olympic Committee and 30% for the V.I. Department of Health for promotion of healthful lifestyles. The remaining 50% must be deposited into the General Fund, and of the~~

ⁿ⁴ Section 16 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

ⁿ⁵ Section 17 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

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*revenues from excise taxes on cigars and tobacco products in the Fund, 25 percent must be designated for the hospital of each district, for a total of 50 percent."*ⁿ⁶

SECTION 22. [Title 33 Virgin Islands Code, chapter 111, section 3080](#), subsection (g) is reenacted with amendments and reads as follows as follows: [sic]

"(g) A surviving spouse of a deceased elected Governor or Lieutenant Governor is eligible for a pension allowance under this section if the surviving spouse:

- (1) is unremarried;
- (2) attains the age of 50 years or older;
- (3) was married to the Governor or Lieutenant Governor;
- (4) was married to the Governor or Lieutenant Governor, as the case may be, at the time of that Officer's death; and
- ~~(5) applies to the Board of Trustees of the Government Employees Retirement System.~~ⁿ⁷

(h)

- (1) The unremarried surviving spouse is entitled to a pension allowance of 1/2 of the amount of the annuity the Governor or the Lieutenant Governor received or would have received under the formula prescribed in subsection (f).
- (2) The surviving spouse of a Governor or Lieutenant Governor remains eligible for the pension allowance until remarriage or death.
- (3) The retirement allowance for eligible surviving spouses commences on the first day of the calendar month next following the Governor's or Lieutenant Governor's or former Governor's or Lieutenant Governor's date of death.
- (4) This section applies to surviving spouses whose Governor or Lieutenant Governor spouse dies on or after June 1, 2011.

SECTION 23. [Title 20 Virgin Islands Code, chapter 38, section 416\(2\)](#) is amended by striking "five" and inserting "six".

Thus passed by the Legislature of the Virgin Islands on November 20, 2012.

History

Approved by the Governor with Line Item Veto December 14, 2012 Witness our Hands and Seal of the Legislature of the Virgin Islands this 30th Day of November, A.D., 2012.

Governor's Message

GOVERNOR'S MESSAGE:

ⁿ⁶ Section 21 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

ⁿ⁷ Part of Section 22 was deleted pursuant to Governor's Objection under authority of section 9(d) of the revised Organic Act of the Virgin Islands. See Governor's Objections at the end of the Act.

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THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR

GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802

340-774-0001

THE GOVERNOR'S OBJECTIONS

Bill No. 29-0444 is hereby approved with the exception of the following items, part or parts, portion or portions thereof, which are hereby objected to (and deleted and disapproved in full) pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended:

SECTION 7.

(b) In Section 633(b) as follows:

(2) Immediately after "632(a)." by inserting a new sentence to read:

"If the Legislature does not receive the agreement 60 days or more prior to the termination or expiration of the existing contract, the existing contract shall be renewed automatically under the same terms and conditions until such time as the Legislature approves a new contract."

SECTION 8. Act No. 7342 (Bill No. 29-0266) is amended in Section 3(a), by adding the following sentence at the end of the first sentence;

"The amount borrowed to pay the shortfall of the 29th Legislature in the first quarter of the fiscal year 2012-2013 due to a budget reduction and for transition of the 29th Legislature to the 30th Legislature in the amount of \$ 850,000."

SECTION 9. The sum of \$ 25,000 is appropriated from the Casino Revenue Fund to the Department of Tourism in the fiscal year ending September 30, 3013 [sic], for the purpose of funding the "Crucian Christmas Festival Showcase" to be held on December 15, 2012.

SECTION 16. Act No. (Bill No. 29-0395), Section 2, is amended the line item, "M9148", by striking "HPR-Girl Scouts Programs on St. Croix \$ 60,000" and "HPR-Youth Programs-Delta Sigma Theta St. Thomas Alumnae Chapter.

SECTION 17. From the savings realized in Section 16 of this Act, the sum of \$ 60,000 is appropriated to the Juan F. Luis Hospital for mammography services in the Fiscal Year ending September 30, 2013.

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lifestyles. The remaining 50% must be deposited into the General Fund, and of the revenues from excise taxes on cigars and tobacco products in the Fund, 25 percent must be designated for the hospital of each district, for a total of 50 percent."

SECTION 22.

(5) applies to the Board of Trustees of the Government Employees Retirement System.

Witness my hand and the seal of the Government of the United States Virgin Islands, at Charlotte Amalie, St. Thomas, Virgin Islands, this 14th day of December, A.D., 2012.

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